

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Joe Lyman,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-0423

Parcel No. 090/04081-000-000

On November 23, 2011, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The appellant, Joe Lyman was self-represented and submitted evidence in support of his appeal. The Polk County Board of Review designated Assistant County Attorney Ralph Marasco, Jr. as its representative. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Joe Lyman (Lyman), owner of residential property located at 5511 Westwood Drive, Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing his property. The real estate was classified residential for the January 1, 2011, assessment and valued at \$177,900; representing \$42,500 in land value and \$135,400 in dwelling value.

Lyman protested to the Board of Review on the ground that the property was not equitably assessed as compared to other like property under Iowa Code section 441.37(1)(a). The Board of Review determined the property's assessment was not equitable with similar property in the area. It provided partial relief by reducing the January 1, 2011, total assessment to \$169,400; allocated as follows: \$42,500 in land value and \$126,900 in dwelling value.

Lyman filed his appeal with this Board on the same ground. Lyman claims \$153,500 is the actual value and is fair market value. He seeks \$15,900 in relief.

According to the property record card, the subject property is a one-and-one-half story, frame dwelling having 846 square feet on the main living area and 482 square feet on the upper living area. The dwelling was built in 1942, has a 4 + 5 quality grade, and is in above-normal condition. The parcel is also improved by a 336 square-foot detached garage built in 1991. The dwelling is situated on 0.197 acres.

Lyman believes his property is not equitably assessed as compared to other like property in the area. Lyman submitted six equity comparables to the Board of Review. He presented five of those properties to this Board along with two more in his neighborhood. Lyman did not make any adjustments to the comparables for size, age, or condition. Lyman also did not submit any evidence regarding the market value for the comparables.

The Board of Review did not provide any witnesses or additional evidence at the hearing. We note the certified record includes the Board of Review Appraiser's Analysis that has a market model indicator of value at \$162,530. However, the appraiser recommended the cost report value of \$169,400 for the property's assessment, which was adopted by the Board of Review.

Lyman made no adjustments to his comparables. Reviewing all the evidence, which is very limited, we find the preponderance of evidence does not support Lyman's contention the subject property is inequitably assessed when compared to other like property in the taxing district. Therefore, we affirm the assessment as determined by the Board of Review.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act

apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

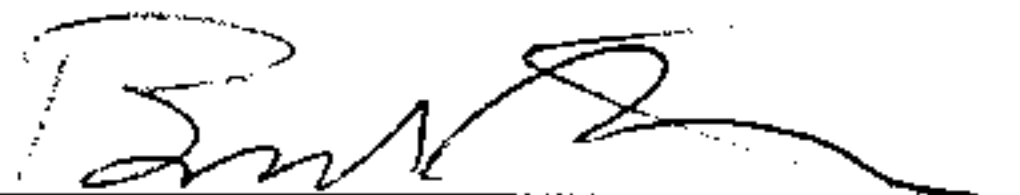
In Iowa property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable property in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

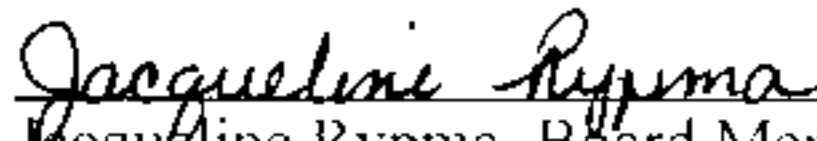
To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). While the subject property is assessed more than the assessor's market estimate, Lyman did not provide sufficient evidence to show the property was inequitably assessed under either test.

Viewing the evidence as a whole we determine that the preponderance of the evidence failed to support Lyman's inequity claim for January 1, 2011. We, therefore, affirm the Lyman property assessment as determined by the Board of Review.

THE APPEAL BOARD ORDERS the assessment of the Lyman property located at 5511 Westwood Drive, Des Moines, Iowa, as determined by the Polk County Board of Review is affirmed.

Dated this 25 day of January 2012.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>1-25</u> , 2012.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
Signature	